

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of
ARBITRATION OF DISPUTES

between

THE TRUSTEES OF THE
UNITE HERE NATIONAL RETIREMENT FUND,
Petitioner,

and

RESISTFLAME ACQUISITION CORP.
C/O KIESLING-HESS FINISHING CO.,
Respondent.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 7/19/07

DEFAULT JUDGMENT
07 Civ. 3607 (RMB)

The Trustees of the UNITE HERE National Retirement Fund (hereinafter, the "Petitioner") having commenced the within proceeding on May 7, 2007 by filing a Petition to Confirm the Arbitration Award, dated May 4, 2007 (hereinafter, the "Petition"), and Resistflame Acquisition Corp., C/O Kiesling-Hess Finishing Co. (hereinafter, the "Respondent") having been duly served on May 23, 2007 with a copy of the Petition to Confirm Arbitration Award, Notice of Petition and Memorandum of Law in Support of Petition to Confirm Arbitration Award by personal delivery upon Carl Baldins, Manager, who is authorized to accept service on behalf of the Respondent at 300 West Bristol Street, Philadelphia, Pennsylvania 19140, and proof of service having been filed with the Court on June 6, 2007, and a copy of this application having been mailed to the Respondent on July 3, 2007, and the Court having issued an Order to Show Cause why an Order and Judgment should not be entered against Respondent, and the Order to Show Cause having been served on Respondent, and Respondent having failed to appear, answer or otherwise move with respect to the Petition and the Order to Show Cause; and

In light of the fact that the Court is being asked to confirm a default arbitration award and in accordance with the Second Circuit opinion in D.H. Blair & Co., Inc. -v.- Gottdiener, 462 F.3d 95 (2d Cir. 2006), this Court has examined the record upon which the underlying arbitration award was based and finds that the record supplied to the arbitrator was a sufficient basis for the award; and, it is

NOW, THEREFORE, upon application of the Petitioner and upon reading the annexed Affidavit of Mark Schwartz, Esq. duly sworn the 29th day of June 2007 and the Certificate of J. Michael McMahon, Clerk of Court, United States District Court for the Southern District of New York, noting the default of the above named Respondent for failure to appear, answer or otherwise move with respect to the Petition, it is hereby,

ORDERED, ADJUDGED AND DECREED, that the Arbitration Award of Philip Ross, dated March 29, 2007, be confirmed; and it is further,

ORDERED, ADJUDGED AND DECREED, that Petitioner have Judgment against Respondent on the Award in the principal amount of \$1,152.37 together with interest in the amount of \$28.96 and costs in the amount of \$617.75, for a total Judgment of \$1,799.08.

Dated: 7/18/07
New York, New York

RMB
Richard M. Berman
United States District Court Judge